



## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[Docket No. FWS-R3-ES-2022-0171; FXES11140300000-234]

### Receipt of Incidental Take Permit Application and Proposed Habitat Conservation Plan for the Great Pathfinder Wind Project, Hamilton and Boone Counties, Iowa; Categorical Exclusion

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability of documents; request for comment and information.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, have received an application from Great Pathfinder Wind LLC (applicant), for an incidental take permit (ITP) under the Endangered Species Act. If approved, the ITP would be for a 6-year period and would authorize the incidental take of two endangered species, the Indiana bat and the northern long-eared bat. The applicant has prepared a habitat conservation plan (HCP) in support of their application. We have made a preliminary determination that the HCP and permit application are eligible for categorical exclusion under the National Environmental Policy Act. We invite comments from the public and Federal, Tribal, State, and local governments.

**DATES:** We will accept comments received or postmarked on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** *Document availability:*

Electronic copies of the documents this notice announces, along with public comments received, will be available online in Docket No. FWS-R3-ES-2022-0171 at <https://www.regulations.gov>.

*Comment submission:* Please specify whether your comment addresses the proposed habitat conservation plan, draft environmental action statement, any

combination of the aforementioned documents, or other documents. You may submit written comments by one of the following methods:

- *Online:* <https://www.regulations.gov>. Search for and submit comments on Docket No. FWS-R3-ES-2022-0171.
- *By hard copy:* Submit comments by U.S. mail to Public Comments Processing, Attn: Docket No. FWS-R3-ES-2022-0171; U.S. Fish and Wildlife Service; 5275 Leesburg Pike, MS: PRB/3W; Falls Church, VA 22041–3803.

**FOR FURTHER INFORMATION CONTACT:** Kraig McPeck, Field Supervisor, Illinois-Iowa Ecological Services Field Office, by email at [kraig\\_mcpeek@fws.gov](mailto:kraig_mcpeek@fws.gov), or telephone at 309–757–5800, extension 202; or Andrew Horton, Regional HCP Coordinator, Midwest Region, by email at [andrew\\_horton@fws.gov](mailto:andrew_horton@fws.gov), or telephone at 612–713–5337. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

**SUPPLEMENTARY INFORMATION:** We, the U.S. Fish and Wildlife Service, have received an application from Great Pathfinder Wind LLC (applicant) for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicant requests the ITP to take the federally listed Indiana bat (*Myotis sodalis*) and northern long-eared bat (*Myotis septentrionalis*) incidental to the operation of 66 wind turbines with a total generating capacity of 225 megawatts (MW) at the Great Pathfinder Wind Project in Hamilton and Boone Counties, Iowa. While the ITP is for 6 years, the operational life of most new wind energy facilities is 30 years, and intensive monitoring conducted during this permit term will inform the need for future

avoidance or a future long-term ITP for the remaining life of the project that will comply with a future National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) analysis and habitat conservation plan (HCP). The applicant has prepared an HCP that describes the actions and measures that the applicant would implement to avoid, minimize, and mitigate incidental take of the covered species for the first 6 years.

We request public comment on the application, which includes the applicant's proposed HCP, and on the Service's preliminary determination that this HCP qualifies as "low-effect," categorically excluded under NEPA; to make this determination, we used our environmental action statement and low-effect screening form, both of which are also able for public review.

## **Background**

Section 9 of the ESA, as amended (16 U.S.C. 1531 *et seq.*), and its implementing regulations prohibit the "take" of animal species listed as endangered or threatened. "Take" is defined under the ESA as to "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect [listed animal species], or to attempt to engage in such conduct" (16 U.S.C. 1538). However, under section 10(a) of the ESA, we may issue permits to authorize incidental take of listed species. "Incidental take" is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing incidental take permits (ITPs) for endangered and threatened species, respectively, are found in the Code of Federal Regulations (CFR) at 50 CFR 17.22 and 50 CFR 17.32.

## **Applicant's Proposed Project**

The applicant requests a 6-year ITP to take the federally endangered Indiana bat (*Myotis sodalis*) and northern long-eared bat (*Myotis septentrionalis*). The applicant determined that take is reasonably certain to occur incidental to operation of 66 previously constructed wind turbines in Hamilton and Boone Counties, Iowa, covering

approximately 19,690 acres of private land. The proposed conservation strategy in the applicant's proposed HCP is designed to avoid, minimize, and mitigate the impacts of the covered activity on the covered species. The biological goals and objectives are to minimize potential take of the Indiana bat and northern long-eared bat through on-site minimization measures, and to provide habitat conservation measures for the two species to offset any impacts from project operations. The HCP provides on-site avoidance and minimization measures, which include turbine operational adjustments. The authorized level of take from the project is 18 Indiana bat and 18 northern long-eared bat over the 6-year permit duration. To offset the impacts of taking Indiana bats and northern long-eared bats, the applicant will implement one or more of the following mitigation options:

- Purchase credits from an approved conservation bank;
- Contribute to an in-lieu fee mitigation fund;
- Implement permittee-responsible mitigation project; or
- Contribute to a white-nose syndrome treatment fund, if available and approved by the Service.

### **Our Preliminary Determination**

We are requesting comments on our preliminary determination that the applicant's proposal will have a minor or negligible effect on the Indiana bat and northern long-eared bat and that the plan qualifies as a low-effect HCP as defined by our Habitat Conservation Planning Handbook (December 2016). We base our determinations on three criteria: (1) Implementation of the proposed project as described in the HCP would result in minor or negligible effects on federally listed, proposed, and/or candidate species and their habitats; (2) implementation of the HCP would result in minor or negligible effects on other environmental values or resources; and (3) HCP impacts, considered together with those of other past, present, and reasonably foreseeable future projects, would not result in cumulatively significant effects. In our analysis of these

criteria, we have made a preliminary determination that the approval of the HCP and issuance of an ITP qualify for categorical exclusion under the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*), as provided by the Department of the Interior implementing regulations in part 46 of title 43 of the Code of Federal Regulations (43 CFR 46.205, and 46.215). However, based upon our review of public comments that we receive in response to this notice, this preliminary determination may be revised.

### **National Environmental Policy Act**

Issuance of an ITP is a Federal action that triggers the need for compliance with NEPA. The U.S. Fish and Wildlife Service (Service) has made a preliminary determination that the applicant's project and the proposed mitigation measures would individually and cumulatively have a minor or negligible effect on the covered species and the environment. Therefore, we have preliminarily concluded that the ITP for this project would qualify for categorical exclusion, and the HCP would be low effect under our NEPA regulations at 43 CFR 46.205.

### **Next Steps**

The Service will evaluate the application and the comments received to determine whether the permit application meets the requirements of section 10(a) of the ESA. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the above findings, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue the requested ITP to the applicant.

### **Request for Public Comments**

The Service invites comments and suggestions from all interested parties on the proposed habitat conservation plan (HCP) and screening form during a 30-day public comment period (see **DATES**). Information and comments regarding the following topics are requested:

1. Whether the adaptive management, monitoring, and mitigation provisions in the proposed HCP are sufficient;
2. The requested 6-year ITP term;
3. Any threats to the Indiana bat and the northern long-eared bat that may influence their populations over the life of the ITP that are not addressed in the proposed HCP or screening form;
4. Any new information on white-nose syndrome effects on the Indiana bat and the northern long-eared bat;
5. Whether or not the significance of the impact on various aspects of the human environment has been adequately analyzed; and
6. Any other information pertinent to evaluating the effects of the proposed action on the human environment, including those on the Indiana bat and the northern long-eared bat.

#### **Availability of Public Comments**

You may submit comments by one of the methods shown under **ADDRESSES**.

We will post on <https://www.regulations.gov> all public comments and information received electronically or via hardcopy. All comments received, including names and addresses, will become part of the administrative record associated with this action.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

**Authority**

We provide this notice under section 10(c) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and the National Environmental Policy Act (42 U.S.C. 4371 *et seq.*) and its implementing regulations (40 CFR 1500–1508; 43 CFR part 46).

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Ecological Services.*

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